

REMARKS

I. Introduction

With the addition of new claims 78-97, claims 58-97 are pending in the present application. In view of the foregoing amendment, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

II. Rejection of Claims 58-77 for Double Patenting

Claims 58-77 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,784,209 ("Gardiner et al."). Applicants file herewith a terminal disclaimer by which the owner, MuscleTech Research and Development, Inc. of 100% percent interest in the instant application disclaims, as set forth therein, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior U.S. Patent No. 6,784,209.

Thus, Applicant maintains that the double patenting rejection has been overcome and respectfully requests that the currently pending claims be deemed allowable.

III. New Claims

New claims 78-97 have been added herein. Applicants respectfully maintain that new claims 78-97 are allowable.

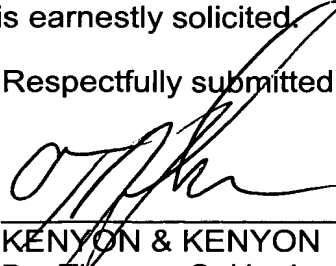
IV. Fees

Any additional fees or charges required at this time in connection with this application may be charged to Patent and Trademarks Office Deposit Account No. 11-0600.

V. Conclusion

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,



Dated: June 28, 2006

KENYON & KENYON
By: Thomas C. Hughes (Reg. No. 42,674)
One Broadway
New York, New York 10004
(212) 425-7200